

REMARKS

In response to the Office Action transmitted December 4, 2008, Applicants submit the above amendments and the following comments.

Applicant would like to thank Examiner Nguyen for the courteous interview with Applicant's representative, Glen L. Nuttall, on May 29, 2009. The claims as presented herein reflect Applicant's considerations in light of the discussing at the interview.

Cancelled Claims

Applicant has cancelled non-elected Claims 6-11, 15-24, 26-34 and 38 without prejudice. Applicant reserves the right to pursue claims to the subject matter of the cancelled claims in future applications.

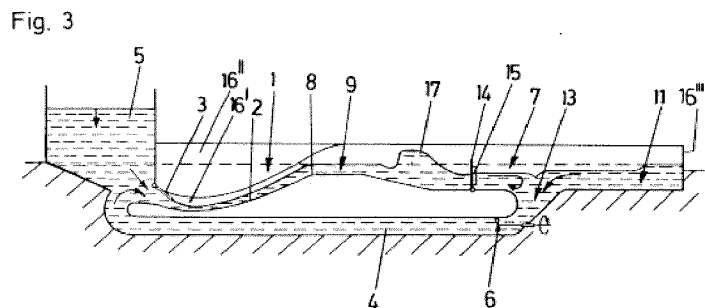
New Claims

New Claims 43-54 have been added to recite additional subject matter considered by Applicants to be part of the invention. New Claim 43 is an independent claim, from which new Claims 44-52 and amended Claims 12-14, 25 and 35-37 depend. New Claim 53 is an independent claim, from which new Claim 54 depends. Applicant submits that the new claims are currently in condition for allowance.

Currently-pending Claims Define Over the Cited Art

In the Office Action, the Examiner rejected Claims 6, 8-13, 15, 16, and 35-38 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,905,987 to Frenzi. Independent Claim 6 has been cancelled without prejudice. New independent apparatus Claim 43 and new independent method Claim 53 have been added, and Applicant contends that these claim, and the claims that depend therefrom, define over the cited art.

Frenzi (see Fig. 3, reproduced herein) teaches a Water Sports Apparatus having an arcuate floor surface 2, an upper edge of the floor 8, an overflow 9 and a supplementary pool 7 that is separated into a first region 10 and a second region 11 by a vertical grate 14. An inlet 13 in the second region 11 allows water to flow to a pump 6. In use, a torrential flow of water is pumped across the floor 2 and over the upper edge 8 to the overflow 9 and pool 7. Per Frenzi (and as shown in



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Figure 3), the pool 7 begins at the overflow 9. (see col. 4, ll. 48-55). Also, although Frenzi's water flow is supercritical before the overflow 9, "there is a substantially lower flow rate of water" in the pool 7, which begins at the overflow 9. (see col. 5, ll. 50-51). Thus, supercritical flow stops at or before the overflow 9.

In summary, Frenzi teaches supercritical flow over floor surface 2, but immediately upon reaching the overflow 9, which is at the upper edge 8 of the floor surface 2, the water enters pool 7 and slows so as to no longer be supercritical.

Independent Claim 43 recites structure that is not taught or suggested by Frenzi. For example, Frenzi teaches water pooling immediately upon passing the upper edge 8/overflow 9, which is in direct contrast to Claim 43. Similarly, Frenzi does not teach or suggest the method recited in independent Claim 53.

Since Frenzi does not teach or suggest all of the limitations of the claims as currently presented, Applicant respectfully submits that the claims are currently in condition for allowance.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

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Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Docket No.	Serial No.	Title	Filed
LOCHT.003C2RX	90/009,335	METHOD AND APPARATUS FOR IMPROVING SHEET FLOW WATER RIDES	11/17/08
LOCHT.003C3RX	90/009,336	METHOD AND APPARATUS FOR IMPROVING SHEET FLOW WATER RIDES	11/17/08
LOCHT.003CP2RX	90/009,334	METHOD AND APPARATUS FOR IMPROVING SHEET FLOW WATER RIDES	11/17/08

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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